



December 16, 2005

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Re: Regulation Z; Docket No. R-1217
70 FR Page 60235 (October 17, 2005)

Dear Sir or Madam:

America's Community Bankers (ACB)¹ is pleased to comment on the second advance notice of proposed rulemaking (ANPR) regarding the open-end credit rules of Regulation Z, which implements Truth in Lending Act (TILA).² The Board of Governors of the Federal Reserve (Federal Reserve) is requesting public comment on how to implement amendments to TILA made by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Bankruptcy Act or the Act).

ACB Position

ACB strongly supports efforts to meaningfully inform consumers about the cost of credit without imposing unnecessary regulatory costs on community banks. Improving consumer financial literacy is an important policy position of ACB. ACB members are community-based lenders dedicated to strengthening America's communities by meeting the financial needs of customers fairly and efficiently. We believe that an informed, educated consumer is able to make better financial decisions.

However, to be beneficial, disclosure must be meaningful and accurate. We do not believe that applying the Bankruptcy Act's minimum payment disclosure requirement to all open-end credit products would result in meaningful and accurate disclosure to consumers. Accordingly, we request the Federal Reserve to invoke its exemption authority under 15 U.S.C. 1604 to create a minimum payment disclosure regulation that applies only to credit card accounts.

¹ America's Community Bankers is the member driven national trade association representing community banks that pursue progressive, entrepreneurial and service-oriented strategies to benefit their customers and communities. To learn more about ACB, visit www.AmericasCommunityBankers.com.

² 70 Fed. Reg. 60235 (Oct. 17, 2005).

ACB believes that institutions should have the option to provide a customized calculation of the repayment period of a particular account but should not be required to do so. Such a requirement would be inconsistent with Congressional intent. We also request the Federal Reserve to provide appropriate tolerances for institutions providing account-specific repayment information.

Background

In December 2004, the Federal Reserve began a review of Regulation Z's open-end credit rules. The Federal Reserve requested public comment on a variety of issues relating to the format of open-end credit disclosures, the content of disclosures, and the substantive protections provided under the regulation. The comment period closed in March 2005. Less than one month after the comment period closed, the President signed the Bankruptcy Act into law. The Act contains several amendments to the Truth in Lending Act, including provisions requiring creditors to provide new disclosures for open-end credit accounts.

Section 1301 of the Bankruptcy Act requires creditors to provide a disclosure on the front of each periodic statement about the effects of making only minimum payments on an open-end credit account. This warning statement must include:

- An example of how long it would take a debtor to pay off a specified balance by making only the minimum payment;³ and
- A toll-free telephone number that the consumers may call to obtain an estimate of the amount of time it would take to repay the balance if only minimum payments are made.⁴

The Act also requires creditors offering open-end plans to provide additional disclosures regarding:

- Late payment fees.
- Home-secured loans that exceed or may exceed the fair-market value of the dwelling.
- Introductory rates.
- Failure to incur finance charges.

The Federal Reserve plans to implement these provisions as part of its broader, ongoing Review of Regulation Z's open-end credit rules. This approach will permit the new

³ Hypothetical examples are provided in the statute. The example a creditor must provide is determined by the minimum monthly payment required for a particular account.

⁴ The Federal Reserve must establish and maintain a toll-free number for use by customers of depository institutions with \$250 million or less in assets. The Federal Reserve must prepare a table illustrating the approximate number of months it would take to repay an outstanding balance if the consumer pays only the monthly minimum payment.

disclosures required by the Bankruptcy Act to be developed concurrently with other changes that might be made both to the content and the format of the current open-end disclosures. We believe that combining the two rulemakings will help minimize compliance burden and training requirements for community banks and their employees.

Minimum Payment Disclosures – Exemption of Certain Accounts and Transactions (Questions 59-60)

The Bankruptcy Act requires creditors to provide minimum payment disclosures for open-end credit accounts. This includes credit card accounts, home-equity lines of credit, and other credit line products.

ACB requests the Federal Reserve use its exception authority provided in 15 U.S.C. 1604 to apply the periodic disclosure duty to only credit card transactions. Section 1604 permits the Federal Reserve to exempt a class of transactions from all or part of TILA if the Federal Reserve determines that TILA coverage does not provide a meaningful benefit to consumers in the form of useful information or protection.

ACB believes there are numerous reasons why the Federal Reserve should exempt all but credit card accounts from the minimum payment requirement. First, there is a plethora of evidence that Congress was focused on credit card accounts when enacting the minimum payment disclosure requirement. House Report 109-031 states that “the legislation requires certain monthly *credit card* billing statements to include specified explanatory statements regarding the increased amount of interest and repayment time associated with making minimum payments” (emphasis added). The report does not discuss other forms of open-end credit being subject to the disclosure requirement. Further, there was extensive discussion in the House and the Senate regarding the effect of credit cards on the economic life of Americans. There was concern that consumers’ level of financial literacy has not kept pace with the use of credit cards as a common method of payment. For example, Senator Grassley stated that the Bankruptcy Act:

Contains significant new disclosures for consumers, mandating that *credit card* companies provide key information about how much [consumers] owe and how long it will take to pay off their *credit card debts* by only making the minimum payment. This is important consumer education for every one of us.

Consumers will also be given a toll-free number to call where they can get information about how long it will take to pay off their own *credit card* balance if they only pay the minimum payment. This will educate consumers and improve consumers’ understanding of what their financial situation is.⁵

Second, the hypothetical repayment examples provided in the Bankruptcy Act are more appropriate for credit card accounts than Home Equity Lines of Credit (HELOC), reverse mortgages, and other open-end credit products. Community banks have developed many

⁵ Remarks of Senator Grassley (2005), Congressional Record, vol. 151, March 1, p. S 1856.

HELOC products with a wide variety of repayment terms. For example, some institutions provide interest only HELOCs with 5-year, 10-year, or 15-year terms. The disclosure examples provided in the Bankruptcy Act would not be appropriate for such products. Other institutions require a minimum payment that is a specific percentage of the account balance. This can range from two to four percent of the account balance and often requires a minimum payment between \$50 and \$100. As a result, minimum payment information is very fact specific. Providing the repayment examples contained in the statute would not benefit consumers and may be misleading.

Third, subjecting only credit card accounts to the minimum payment disclosure requirements would not be consistent with the overall purpose of TILA. TILA's purpose is to assure a meaningful disclosure of credit terms and better inform consumers about the cost of credit. To be consistent with the purpose of TILA, minimum payment disclosures must provide a reasonable estimate of the time it will take for a consumer to pay off an open-end credit account based on the features of that particular credit product. We do not believe the statutory examples achieve this goal. Moreover, it would be difficult for the Federal Reserve to craft sample disclosures that are reflective of the myriad of repayment terms available for open-end credit accounts.

Minimum Payment Disclosures – Customized Repayment Period (Question 68)

The Bankruptcy Act requires creditors to provide a toll-free telephone number that consumers can use to obtain an estimate of how long it will take to pay off their balance by making only the minimum payment. The Federal Reserve must develop a table that creditors can use in responding to consumers requesting such estimates. However, a creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months it will take to repay that specific customer's outstanding balance is not required to provide a minimum payment warning based on one of the statutory examples.

ACB believes that institutions should have the option to customize the repayment calculation of the repayment period, but that such customization should not be required. Some ACB members have indicated that they are inclined to implement the creditor-generated minimum repayment information. These institutions believe tailored repayment information would be more accurate and easier for their customer service representatives to explain to consumers. Some institutions favor this option because it imposes a less onerous periodic billing statement requirement.

While this approach would provide customers with account-specific information, it exposes creditors to increased risk. Therefore, ACB requests the Federal Reserve to expressly permit repayment period calculations based on the following assumptions:

- No additional purchase activity.
- No additional fees.
- All payments are timely.

- No change in the interest rate.

We also request the Federal Reserve to provide appropriate tolerances for institutions providing account-specific repayment information. For example, institutions will require some degree of flexibility regarding “current rate” and “current balance” information. Institutions should not be held liable for posting lags and rate changes that may have been triggered but not applied to an account.

While some community banks view providing specific repayment information as beneficial, others believe this approach would be very burdensome. If such a requirement were imposed, community banks would look to their core processors to provide institution-specific calculations. It is unclear whether core processors are currently able to offer this degree of customization or what the cost would be to provide such a tailored service for purposes of the toll-free telephone number. Accordingly, ACB reiterates that community banks should have the option to provide a customized calculation of the repayment period of a particular account, but should not be required to do so. We believe such a requirement would be inconsistent with Congressional intent.

Conclusion

It is widely believed that many consumers do not understand the effect of making only the required minimum payment on a credit card account. Congress addressed this concern in enacting the consumer disclosure provisions of the Bankruptcy Act. ACB reiterates its support of improved financial literacy and the importance of providing meaningful consumer disclosure. To ensure that consumers do not receive unnecessary or inaccurate information, we request the Federal Reserve to apply the minimum payment disclosure requirement only to credit card accounts.

ACB also repeats our request that institutions should have the option to provide a customized calculation of the repayment period of a particular account, but should not be required to do so. We also request the Federal Reserve to provide appropriate tolerances for institutions providing account-specific repayment information.

Thank you for the opportunity to comment on this important matter. Should you have any questions, please contact the undersigned at 202-857-3187 or via email at kshonk@acbankers.org.

Sincerely,



Krista J. Shonk
Regulatory Counsel